

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF MISSISSIPPI  
NORTHERN DIVISION

RANDY CARL MARSHALL

PLAINTIFF

V.

CIVIL ACTION NO. 3:23-CV-117-DPJ-ASH

DONALD JACKSON and LATISHA  
SMITH

DEFENDANTS

ORDER

This pro se civil-rights case is before the Court on the Report and Recommendation [36] of United States Magistrate Judge Andrew S. Harris. The suit challenged the conditions of Plaintiff Randy Marshall's confinement while incarcerated at a state facility in Meridian, Mississippi.

The Court ordered an omnibus hearing for September 25, 2024. Order [32]. Although that Order was sent to Marshall's Pascagoula address (and not returned as undeliverable), he neither appeared at the hearing nor contacted the Court before the hearing to say he could not attend. So, on September 25, Judge Harris entered a Report and Recommendation, recommending dismissal without prejudice for failure to prosecute and failure to comply with Court orders. In his R&R, Judge Harris listed "at least seven occasions" when Marshall was advised he risked dismissal of his case for failure to comply with Court orders. R&R [36] at 3.

The R&R also advised Marshall that he had 14 days to file an objection. *Id.* at 4. Marshall has not filed an objection, and the time to do so has long passed. *See* Fed. R. Civ. P. 72(b) advisory committee's note ("When no timely objection is filed, the court need only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.").

As the R&R correctly states, dismissal for failure to prosecute is warranted on these facts. R&R [36] at 3. The Court finds no clear error on the face of the record as to the R&R's finding that Marshall's case should be dismissed for failure to prosecute and to comply with Court orders.

The unopposed Report and Recommendation [36] is adopted as the opinion of the Court. This action is dismissed without prejudice. A separate judgment will issue in accordance with Federal Rule of Civil Procedure 58.

**SO ORDERED AND ADJUDGED** this the 26th day of November, 2024.

*s/ Daniel P. Jordan III*

UNITED STATES DISTRICT JUDGE